

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF A PUBLIC HEARING TO CONSIDER THE ADOPTION OF AN AIRBORNE TOXIC CONTROL MEASURE TO REDUCE EMISSIONS OF TOXIC AIR CONTAMINANTS FROM OUTDOOR RESIDENTIAL WASTE BURNING

The Air Resources Board (the "Board" or "ARB") will conduct a public hearing at the time and place noted below to consider the adoption of an airborne toxic control measure to reduce emissions of polychlorinated dibenzo-p-dioxins, dibenzofurans, and other toxic air contaminants from outdoor residential waste burning. The ARB is proposing to add section 93113 to title 17, California Code of Regulations (CCR).

DATE: February 21, 2002

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Coastal Hearing Room, Second Floor
1001 "I" Street
Sacramento, CA 95814

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m. on Thursday, February 21, 2002, and may continue at 8:30 a.m. on Friday, February 22, 2002. This item may not be considered until February 22, 2002. Please consult the agenda for the meeting, which will be available at least 10 days before February 21, 2002, to determine the day on which this item will be considered.

The facility is accessible to persons with disabilities. If accommodation is needed, please contact the ARB's Clerk of the Board by February 6, 2002, at (916) 322-5594, or TDD (916) 324-9531 or (800) 700-8326 for TDD calls from outside the Sacramento area, to ensure accommodation.

INFORMATIVE DIGEST OF PROPOSED ACTION AND PLAIN ENGLISH POLICY STATEMENT OVERVIEW

Sections Affected: Proposed adoption of new section 93113, title 17, CCR.

Description of the Proposed Regulatory Action

Residential waste burning is the practice of outdoor burning of household wastes associated with one- and two-unit family homes. These household wastes include materials such as garbage, paper, cardboard, cloth, and processed wood. Typically, 55-gallon metal drums known as burn barrels are used for this burning. Residential waste burning generates a number of toxic air contaminants, including polychlorinated dibenzo-p-dioxins and dibenzofurans (collectively referred to as dioxins), benzene,

1,3-butadiene, polycyclic aromatic hydrocarbons (PAHs), and polychlorinated biphenyls. These toxic air contaminants may result in substantial health impacts including cancer and immune system damage. The Office of Environmental Health Hazard Assessment has identified dioxins and PAHs as two of the initial five toxic air contaminants that may cause infants and children to be especially susceptible to illness.

Other air pollutants found in smoke produced from residential waste burning include particulate matter and oxides of nitrogen. Most of the particulate matter emitted from residential waste burning is small enough to be inhaled and can be especially harmful to people with existing respiratory illness, the aged, and the very young. Exposure to such particles may worsen existing disease conditions and can produce symptoms ranging from breathing difficulties to increased respiratory infection and even death.

Individual air pollution control district and air quality management district (air district) rules address the types of residential waste that is allowed to be burned. Current rules in 27 air districts allow the burning of some form of residential waste other than natural vegetation in all or part of the air district. Six air districts allow all forms of residential waste to be burned in all or part of the air district. The remaining 21 air districts prohibit the burning of household garbage, but may allow the burning of other materials such as paper, cardboard, cloth, or processed wood.

Staff's proposal for the airborne toxic control measure would eliminate the outdoor burning of residential waste materials other than natural vegetation, as well as the use of burn barrels. However, limited exemptions would be allowed in very rural areas where waste pickup service is not available, the distance to an approved disposal facility is too far, and population density is very low. These exemption areas would be determined by the air district, with approval by both the air district Board and the ARB. Exemptions could be renewed every five years. The prohibitions in the proposed regulation would become effective July 1, 2003.

At the February 21, 2002 hearing, staff will recommend the adoption of the airborne toxic control measure for outdoor residential waste burning. The Board will discuss and consider staff's recommendation after hearing public comment.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSON

The staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes the full text of the proposed regulatory language, and a summary of the environmental and economic impacts of the proposal.

Copies of the ISOR and the full text of the proposed regulation may be accessed on the ARB's web site listed below, or may be obtained from the ARB Public Information Office, 1001 "I" Street, Environmental Services Center, 1st floor, Sacramento, CA 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing (February 21, 2002).

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB's web site listed below.

Further inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Ms. Karen Magliano, Manager, Particulate Matter Analysis Section, at (916) 322-7137, or Ms. Christine Suarez-Murias, Air Pollution Specialist, at (916) 323-1495.

Further, the agency representative and designated backup contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Ms. Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, at (916) 322-6070, or Ms. Marie Kavan, Regulations Coordinator, at (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

If you are a person with a disability and desire to obtain this document in an alternative format, please contact the ARB ADA Coordinator at (916) 232-4916, or TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR when completed, are available on the ARB Internet site for this rulemaking at <http://www.arb.ca.gov/regact/reswstebn/reswstebn.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will not create costs or savings, to any state agency or in federal funding to the State, costs or mandate to any local agency or school district whether or not reimbursable by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other non-discretionary savings to State or local agencies.

Although not expressly mandated, the Executive Officer has determined that the proposed regulatory action may create discretionary costs to State and local agencies. Local jurisdictions responsible for providing waste disposal services may need to expand their services and facilities. However, these costs can be recaptured through waste collection service fees and tipping fees at approved disposal sites. Air districts and fire agencies may incur small, but unquantifiable, costs for enforcement, administration, and public education and outreach.

The proposed regulatory action will also have some impact on the requirement to divert 50 percent of waste from landfills by January 1, 2000 pursuant to sections 41780 through 41786 of the Public Resources Code. Some local jurisdictions may also incur costs if they choose to recalculate their baseline year for the purpose of determining waste diversion rates. However, it is possible that an increase in materials sent to recycling centers could offset increases in materials sent to landfills, thereby minimizing the impact on diversion rates.

The California Integrated Waste Management Board and the California Department of Forestry and Fire Protectors may incur some small, but unquantifiable costs relative to waste diversion activities and issuing burn permits, respectively. However, these tasks are part of the normal and routine operations of the agencies and are expected to be either recovered through permit fees or absorbed in the agency budgets.

In developing this regulatory proposal, the ARB staff also evaluated the potential economic impacts and/or benefits on representative private persons and businesses.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or businesses directly affected. The proposed regulatory action may provide increased business opportunities for businesses associated with the collection, transfer, and disposal of municipal waste.

In accordance with CCR section 11346.3, the Executive Officer has determined that the proposed regulatory action will have no significant impacts on the creation or elimination of jobs within the State of California, no significant impacts on the creation of new businesses and the elimination of existing businesses within the State of California, and no significant impacts on the expansion of businesses currently doing business within the State of California.

The Board's Executive Officer has also determined, pursuant to Government Code section 11346.5(a)(3)(B), that the proposed regulatory action may affect a few small businesses by providing expanded business opportunities for waste pickup and disposal.

The Executive Officer has also determined that the proposed regulatory action will impose additional costs on representative private persons. The proposed regulatory action will require households who are currently burning some or all of their waste to use alternative disposal methods, such as contracting for curbside pickup or self-hauling their waste to a disposal or recycling facility. These costs are expected to range from \$100 to \$600 per year per household.

A detailed assessment of the economic impacts of the proposed regulation can be found in the ISOR.

Before taking final action on the proposed regulatory action, the Board must determine that no alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed action.

SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the meeting must be received **no later than 12:00 noon, February 20, 2002**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 "I" Street, 23rd Floor
Sacramento, California 95814

Electronic mail is to be sent to reswstebrn@listserv.arb.ca.gov and received at the ARB **no later than 12:00 noon, February 20, 2002**.

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon February 20, 2002**.

The Board requests but does not require 30 copies of any written submission. Also, the ARB requests that written and e-mail statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to the ARB in sections 39600, 39601, 39659, 39666, and 41700 of the Health and Safety Code. This action is proposed to implement, interpret, or make specific sections 39020, 39044, 39650 through 39669, 39701, and 41806 of the Health and Safety Code.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the CCR. Following the public hearing, the ARB may adopt the regulatory language as

originally proposed or with nonsubstantial or grammatical modifications. The ARB may also adopt the proposed regulatory language with other modifications if the modifications are sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Environmental Services Center, 1001 "I" Street, 1st Floor, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Michael P. Kenny
Executive Officer

Date: December 20, 2001

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs see our Web-site at www.arb.ca.gov.